

## TERMINATION OF OUTPATIENT TREATMENT

### THE LAW

Each patient shall... "Have a right to receive **prompt and adequate treatment, rehabilitation and educational services** appropriate for his or her condition..."

§ 51.61(1)(f), Wis. Stats. [Emphasis added.]

Each patient shall... "Have the right to be **treated with respect and recognition of the patient's dignity and individuality** by all employees of the treatment facility or **community mental health program** and by licensed, certified, registered or permitted providers of health care with whom the patient comes in contact."

§ 51.61(1)(x), Wis. Stats. [Emphasis added.]

"Patients have the right to be free from having **arbitrary decisions** made about them. To be non-arbitrary, a decision about a client must be **rationally based** upon a legitimate **treatment**, management or security interest."

HFS 94.24(3)(h), Wis. Admin. Code [Emphasis added.]

The treatment facility shall maintain a patient treatment record which shall include: "**Documentation** that is specific and objective and that **adequately explains** the reasons for any **conclusions or decisions** made regarding the patient."

HFS 94.09(6)(d), Wis. Admin. Code [Emphasis added.]

[NOTE: The following excerpts are from the **DRAFT OUTPATIENT CLINIC RULES** (HFS 35) being promulgated by the department. Since the promulgation has not been finalized, the following are considered to be "**best clinical practices**" at this time and outpatient clinics are urged to comply with their intent until such times as the rules go into effect. To see the rules or comment on them at public hearings to be held this summer go to: <https://apps4.dhfs.state.wi.us/admrules/public/Rmo?nRmold=482> ]

**"Consumer rights.** (1) A clinic shall implement written policies and procedures that are consistent with s. 51.61 Stats, and ch. HFS 94 to protect the rights of consumers.

(2) If a staff is no longer employed by or contracted with the outpatient mental health clinic, the clinic shall offer consumers who had been served by that staff options for ongoing services.

(3) (a) 1. A consumer may not be involuntarily discharged from treatment because of the inability to pay for services unless notice is given to the consumer under par. (b).

2. A consumer may not be involuntarily discharged from treatment for behavior resulting from mental health problems until another provider accepts a referral to serve the consumer unless the discharge is necessary for the consumer's welfare and needs cannot be met by the clinic or the safety of individuals in the clinic may be endangered.

(b) Before a clinic may involuntarily discharge a consumer under par. (a) 1. or 2., the clinic shall notify the consumer in writing of the reasons for the discharge; the effective date of the discharge; sources for further treatment; a statement that the consumer has the right to request a review of the action to the department with the address of the department."

HFS 35.24 (DRAFT rules)

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## DECISIONS

A client receiving outpatient treatment was upset about the termination of her treatment by her therapist. The therapist determined that she was unable to meet the client's needs because the therapeutic relationship had been irrevocably damaged. The therapist offered to, and did, meet with the client to reach a therapeutic resolution of the need for termination. Despite this meeting, the client felt that the therapist had "abandoned" her. It was determined that, since the attainment of measurable objectives was not met, and both the client and her therapist felt like she was no longer making progress in treatment, it seemed reasonable for therapy to conclude. The personalities involved were not meshing together in a productive fashion and the kind of therapeutic work and progress that the client really wanted was not getting done. This could have led to voluntary discharge, rather than termination, by encouraging joint decision making and agreement by both client and therapist. The termination did not rise to the level of a violation based on the rights and rules that are currently in place. However, the best practice would be to achieve consensus that treatment goals were not being met and to agree to discontinue therapy. Though the manner of this termination did not technically violate the client's rights, the ruling was subject to change following the promulgation of revisions to HFS 35. (Level III decision in Case No. 05-SGE-12 on 5/16/06)

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